

**COMMISSION MEETING
THURSDAY, NOVEMBER 13, 2003
DRAFT MINUTES**

Chair McLaughlin called the meeting to order at 1:30 p.m., at the Double Tree Guest Suites located in Seattle. She welcomed the attendees and introduced the members and staff present:

MEMBERS PRESENT: **COMMISSIONER LIZ McLAUGHLIN, Chair;**
 COMMISSIONER ALAN PARKER, Vice Chair;
 COMMISSIONER CURTIS LUDWIG; Kennewick;
 COMMISSIONER ORR; Spokane;
 COMMISSIONER JANICE NIEMI, Seattle;
 SENATOR MARGARITA PRENTICE, Seattle
 SENATOR SHIRLEY WINSLEY; Fircrest
 REPRESENTATIVE CHERYL PFLUG, Seattle

STAFF PRESENT: **RICK DAY, Director;**
 ROBERT BERG, Deputy Director;
 ED FLEISHER, Special Assistant;
 DERRY FRIES, Assistant Director, Licensing;
 AMY BLUME, Administrator, Communications/Legal Dept.;
 CALLY CASS-HEALY, Assistant Director, Field Operations;
 JERRY ACKERMAN, Assistant Attorney General;
 SHIRLEY CORBETT, Executive Assistant

Chair McLaughlin noted that Assistant Director Derry Fries submitted his notification of intent to retire effective November 21, 2003. She commented that Mr. Fries had been with the agency for almost 21 years. She also informed Mr. Fries that throughout his career with the Commission he had been held in high regard internally by staff and externally from the licensee perspective.

Mayor Steve Mullet extended welcoming comments to the Commission and meeting attendees.

Service Recognition – Partnership:

Director Day highlighted the agency's License Technician In-Training Program – a performance based in-service training program designed to successfully train new license technicians in all facets of their duties and responsibilities. The program duration is 2,080 hours. Once completed, successful

candidates are promoted to a journey level Gambling License Technician position. This month, two staff members completed the in-training program: Julie Sjöholm (who could not be present) and Roberta Carpenter.

Director Day and **Chair McLaughlin** presented employee service recognition awards to Roberta Carpenter-Licensing Technician and James Koran-Special Agent, 5 years respectively; Christie Harris-Human Resources Consultant, Cathee Gottfryd-License Technician and Loren Husted-Information Technology – 20 years respectively, and Vicky Bowdish-Human Resources Consultant-25 years.

Five staff members were present participating in the agency's Partnership Program, which is a program designed to give the staff more information about what other units in the agency do. One of the activities includes having staff attend a commission meeting. The participants this month were: Special Agents Keith Kam, Jeremy Wakeman, and Julie Mastro; Administrative Secretary Lisa Cabe, and Forms & Records Specialist Michelle Davis.

Director Day provided an abbreviated review of the agenda and identified inserts added to the agenda packet since publication.

1. Petition for Rule Change by the Recreational Gaming Association - Increasing Betting Limits for House-Banked Card Games:

WAC 230-40-120:

Amy Blume, Administrator, Communications and Legal Department, reported this rule was on the agenda for final action. The Commission voted to file a petition submitted by the Recreational Gaming Commission to increase the betting limits from \$100 to \$300 at the August meeting. In October, the Commission voted to amend the petition with the following provisions: to raise the betting limit to \$200, and that the number of tables that could have the higher betting limit would be based on the number of tables the card rooms were authorized to operate. If a card room was authorized to have 1 to 5 tables they could have one table at the \$200 limit—if they have 5 to 10 tables, they could have two tables authorized at that limit—and, if they have 10 to 15 tables, they could have three tables at the \$200 limit. The higher limits would be in effect for the year 2004 and would sunset unless the Commission took other action to extend the effective date. Ms. Blume highlighted a memo in the agenda packet from Deputy Director Bob Berg explaining that if the rule passed staff didn't anticipate a need to change their regulatory program. The memo also noted that the higher limits would apply to all house-banked card games that may have multiple betting opportunities. Staff was also asked to provide some information about what constituted an expansion of gambling and provided a response memorandum which was contained in the agenda packet. Ms. Blume reported that the agency received many emails and several letters about the petition; there were a total of 76 e-mails supporting the petition and five letters and 59 e-mails against the petition. Staff did not offer a recommendation because this is a policy consideration for the commissioners.

After the last meeting, the amended rule and sign-up sheets were posted on the agency web site. There were 84 people who responded; all said they were in favor of the proposal, 45 left their name/organization name, and 12 people expressed an interest in testifying. Two new letters were received at the beginning of the commission meeting, one from Speaker of the House Frank Chop

asking the Commission not to pass this rule, and another from Norm Maleng, King County Prosecuting Attorney, noting that he felt increasing the bet limit to \$200 was an expansion of gambling, and he urged the rejection of the proposal. With no further comments, **Chair McLaughlin** called for public testimony.

Bob Tull, representing the Recreational Gaming Association, explained the original petition was for all the tables to be allowed to go to \$300, if the house and the player wanted to do so. He affirmed that at the October meeting, Commissioner Orr proposed the amendment which is currently before the Commission. He noted there were many people in the audience with an interest in this issue, and he asked them to raise their hand if they supported the increase in the betting limits. (There were a significant number of hands raised.) **Commissioner Ludwig** asked them to again raise their hand if they were an employee of a card room. Mr. Tull acknowledged a goodly number. Mr. Tull addressed the amended rule and noted that the RGA appreciated that commission staff did not find regulatory problems or issues associated with increased limits. He believed that was because staff was now used to regulating the card room environment, and used to regulating in a co-regulation fashion with the compacted casinos at substantially higher limits.

With respect to the petition alternative provided in Commissioner Orr's motion, **Mr. Tull** asked that the Commission consider increasing the number of tables. He explained that games such as Caribbean Stud, Lucky Ladies, Pai-Gow, Black Jack, Spanish Black Jack, Three Card Poker, Let it Ride, and others, are frequently played in card rooms and operators usually have one table each. From the operator's perspective, it would be a better business opportunity especially during the test period to have a few more tables allowed in the mix for customer appeal. The RGA therefore asked the Commission to consider amending the alternative so that one-third of the tables could operate at the higher limit. The RGA also renewed their request that the increase be allowed at the higher amount. Mr. Tull emphasized that the RGA believed the original petition amount was appropriate. He asked the Commission to carefully consider going forward with a limit closer to, or at, the \$300 level requested since it appeared there may be a limit in the number of tables in some form or fashion. The RGA also strongly urged additional consideration of the time period. Mr. Tull explained the industry experiences a cyclical year—parts of the year are high in terms of customer volume, and other parts are low. Mr. Tull suggested that if a goal of the one-year trial period was to have a good picture of the increased betting limit effect, an additional few more months to evaluate and to allow for staffing or other input as to what to do and whether to modify the rule (extend the rule, or let it lapse), would be appropriate. The RGA recommended the sunset be extended to June 30, 2005, which allows for a second Legislative Session before the trial period sunsets. Mr. Tull emphasized that any or all of the recommended revisions would be appreciated and he affirmed the RGA was prepared to implement the rule and that operators would continue to work with their agents and with managers of the Commission.

Chair McLaughlin called for any elected officials in the room that wished to testify. There were none. Chair McLaughlin referred to the sign-up sheet and called the roll.

Mark Palmer, Casino Manager at Great American Casino in Everett, stated he was in favor of the amendment and offered an analogy. He explained that he could go to a bar down the street and

order a drink, or he could go down the road 20 minutes and order the same drink. Unfortunately, he could go to his casino and only gamble up to \$100, or he could travel those extra 20 minutes through traffic and gamble up to \$500 at a tribal facility. He noted both venues offered the same form of social interaction and entertainment, and he questioned why they shouldn't both have equal terms.

Cathy Lewis explained that in a tough marketplace and in an economy that is suffering, the increased betting limits would give a little stability to an industry that needed it. She therefore reported that she supported the petition.

Mark Mitchell, Drift on Inn and Club Hollywood, stated that the Gambling Commission recently took away the limit on Three Card Poker and Caribbean Stud. By allowing three tables at \$200, it would allow the industry to get back what they lost. He appealed to the Commission to give back a little better than that, and to authorize five tables at the \$300 limit.

Ernestine Farness, Seattle Jaycee Bingo, explained her organization would like to see the Commission give consideration to allowing the card rooms an increase in response to their need to generate revenue. Ms. Farness wasn't sure about the argument that forbidding card rooms from being able to raise their bet limits would stop gambling—people were being bused to Reno and Laughlin in Las Vegas, and other destinations with the higher stakes. She believed that limiting bet limits in Washington would not stop people from gambling; it would simply move the industry out of the state.

Eric Shier, Great American Casino, Kent, spoke in support of the petition. He advised that he was in favor of raising the betting limits to \$300 for several reasons: it would help the casino's operating revenues to pay for the expenses, it would also increase the revenues to support staff, employees, and dealer's salary increases, and it would increase the tax revenues for the local jurisdiction and the state. Those revenues would reduce the deficit budget for the state. Mr. Shier explained that many of his customers have made comments that they would prefer to stay at the non-tribal casinos because they offer better customer relations, have better relationships with their customers, and provide a better environment. **Jerry Ackerman**, Assistant Attorney General clarified that the statute does provide for taxing authority for the local government, and while the state currently does not tax a gambling tax as such, the state does levy B&O taxes.

Jack Walker, Silver Dollar, Sea-Tac, reported that within the last few months of 2003 he had to reduce employee payrolls and benefits—because of the increases in health and medical benefits every year. Mr. Walker wasn't certain what the future would hold because of the inability to reach the revenues necessary to meet the ends. He stressed the need to have revenues to meet the rising medical benefits. Mr. Walker reported he was in favor of the petition.

In closing, **Mr. Tull** underscored that in the absence of regulatory issues, he believed this rule should become a discussion for either business considerations or moral considerations. In the end, he believed the Commissioners should look at this in increments that would not push the regulatory walls in any way. If approved, the rule would simply allow the operator to have the option to allow higher betting limits and the player would be allowed to bet more if they so desired; it wouldn't be

required. The owner's wouldn't have to implement this rule, however, if they did, it would generate more revenues and taxes. Mr. Tull asked the Commission to consider and approve the variations the RGA has requested.

With no further public comments, **Chair McLaughlin** closed the public testimony. She stated for the record, that comments had been made indicating that there has been no local input on this issue. She emphasized that the Commission has met three times on this issue, and has heard from people at all three public meetings. She believed the Commission had received a lot of input on this issue.

Commissioner Niemi verified the Commission was considering the matter to increase betting limits to \$200, starting January 2004, and that would then be sunsetted at the end of the year.

Commissioner Niemi then made a motion seconded by **Commissioner Parker** to continue this issue until the January 2004 meeting.

Commissioner Niemi affirmed that she realized everyone would like an answer in this matter; however, there were several things involved that she believed the Commission needed more time to consider. She noted the Commission would be receiving a study relating to the whole issue of non-tribal gaming and gambling in general in March of 2004. However, she hoped staff would be able to get figures relating to that study sometime in January rather than having to wait until March. Commissioner Niemi reminded everyone that there was no jurisdiction for the Commission to say they didn't want any gambling, and this wasn't a question of the Commission wanting to keep gambling going just for the sake of gambling. She emphasized that if any jurisdiction wanted to opt out (a lot of King County doesn't have gambling), they certainly may do so. Commissioner Niemi also addressed revenues and noted there was a big difference between the net receipts and gross receipts, and the net receipts in this state for 2001, 2002 and 2003 were basically static. The only difference was that the tribal casinos increased, which meant card rooms, Bingo halls, horse racing, and lottery has decreased. Commissioner Niemi emphasized the need for the Commission to have more time to decide how to handle these things. She advised that she was personally in favor of increasing the limit to a figure higher than the proposed \$200 limits, and that she was in favor of some money going to the state general fund. Commissioner Niemi believed the time had come when the state needed to have some kind of tax passed; however, that was not an issue within the Commission's jurisdiction, while the issue to consider raising the betting limits was within the Commission's jurisdiction. She advised that she would appreciate more time for consideration.

Commissioner Ludwig responded that while he was previously opposed to a continuance, he supported the motion because he also realized there were a lot of things the Commission still didn't know. He also hoped the study might be able to include information on other states where Black Jack type games are played and what their betting limits were so staff could make some comparisons. He believed Colorado and South Dakota had similar card room games. He hoped that during the interim and before the January meeting, staff might provide some of that data.

Commissioner Orr advised that he was frustrated. While the Commission has receive letters from elected officials with concerns, they haven't addressed the issues regarding increased health costs, increased minimum wages, and increased L & I costs. He stated that he understood and respected

his fellow commissioners, but that he would have to vote against the motion because he believed someone had to draw a line in the sand and say, “Lead, follow, or get out of the way”. He indicated an RCW would trump a WAC, and if the Legislature didn’t like what the Commission did, they could change the law. He believed the Commission has been very patient in waiting for someone to make a decision.

Commissioner Parker advised that he supported the motion. He acknowledged that it has been helpful to have the kind of testimony that has been presented, not only in terms of the people who have come in person, but also the correspondence and other material. He also noted that whether or not the state has gambling is not the Commission’s decision. That has already been decided by the Legislature and therefore the testimony opposed to gambling isn’t to the point. Commissioner Parker believed the Commission’s concerns were broader than the narrow proposal that Attorney Tull presented—that the only thing the Commission should look at is whether this proposal would create some additional regulatory problems for the Commission. Commissioner Parker believed the Commission had a responsibility to take a broader look at this question, and that deferring action until the next commission meeting was a reasonable thing to do. He advised that he didn’t have a predisposition for or against the petition, he simply would like more time to have more information, and that there was no harm by deferring action and giving the Commission more time.

Chair McLaughlin advised that she would join Commissioner Orr in voting against this proposal because she believed it was time to take a vote—and she supported the alternative submitted by Commissioner Orr. She explained the rule had been around for a long time and that it had been deferred; she believed it was an issue that would not go away until a decision was made.

Vote taken: there were three aye votes and two nay votes which were cast by Chair McLaughlin and Orr. The motion passed. Chair McLaughlin advised this issue would be heard again on January 8, 2004. Chair McLaughlin called for a recess at 2:30 and recalled the public meeting at 2:45 p.m.

2. **Review of Agenda and Director’s Report:** **Director Day** addressed the F.B.I. notification advising that Assistant Director Cally Cass-Healy has been invited to attend the 216th session of the F.B.I. National Academy from January through April of 2004. Although the Commission has other employees who are graduates of the Academy, Director Day noted that Ms. Cass-Healy would be the first to attend the Academy as an employee of the Commission. He then congratulated Ms. Cass-Healy on her acceptance.

Director Day spoke to his monthly e-message to staff on retirement, which he believed was time-appropriate as the Commission acknowledged and recognized Mr. Fries’ retirement. Director Day affirmed that he planned to work directly with Mr. Fries’ supervisors and licensing staff for a short period of time and to take this opportunity to re-evaluate each position in the agency’s structure to make sure it was as effective and efficient as possible. Director Day affirmed that it would be very difficult to replace the experience and the diplomacy that Mr. Fries brought to this agency, and he extended the agency’s appreciation for Mr. Fries’ many years of service, and congratulated Mr. Fries on his retirement.

Net Receipts Comparison: **Director Day** referred to the chart contained in the agenda packet—a pie graph that continues to be an illustrative document about gambling in Washington. Of note, was that the net total amount has increased from just over \$1.1 billion to \$1.3 billion, and that the substantial amount of increase was with tribal casinos. Tribal casinos have surpassed 50 percent of the total share of net receipts of gambling in the state of Washington. Punchboards, pull-tabs, and Bingo have continued to decline, both in market share and in dollars. Card rooms and dollars have increased slightly. He also noted that it appears that the Poker games, or the rate games, have shown some increase in popularity, which might be attributed to the increasing popularity of Poker on television.

Commissioner Parker inquired if there was a potential that the Lottery could significantly expand if the additional types of lotteries were authorized. **Director Day** reported that the Lottery has reflected their concerns about their declining market share at the Gaming Revenue Task Force meeting, and they have referred to various different games that may increase that share, along with steps they are taking to increase the market of the Mega Millions games. One suggested game has been along the concept such as what exists in Oregon, which allows video lottery terminals to be placed, owned, and operated by the Lottery. **Director Day** announced that Governor Locke has appointed Ken Nakamura as the new Lottery Director; and that he comes with a substantial amount of business experience. **Chair McLaughlin** advised that she understood the Lottery just approved a new scratch ticket for \$20 and noted the lack of commentary on that increase being an expansion of gambling while the Gambling Commission seemed to draw a lot of attention. **Director Day** affirmed the Lottery recently launched a new scratch ticket game with a \$20 price per ticket, as compared to the \$5 maximum, with a million dollar prize. However, he noted the Lottery's goal was to maximize revenue, and it is described as such in statute. He also advised that we should anticipate they would continue to be as competitive as necessary.

Commissioner Parker noted the \$2 million dollar increase in the overall total, which reflected that gambling was getting a bigger share of the economy, yet at the same time the economy in this state was declining. **Director Day** affirmed and stated that gambling is not necessarily susceptible to economic downturns, in fact, traditionally gambling increases slightly because of the concept that people may gain some additional dollars based on winning prizes.

Director Day continued with his Director's report: Shoalwater Bay Indian Tribe: **Director Day** identified a success for the Commission and the Shoalwater Bay Tribe, and addressed certification correspondence from Tribal Chairman Johnson reporting that the Shoalwater Bay Tribe was now in full compliance with the tribal state compact. They are operating 125 machines and six tables.

Kalispel Casino: **Director Day** reported that in conjunction with tribal gaming officials, local officials, and prosecutors in Spokane, Commission agents were able to arrest two individuals who used a duplicate ticket scam to gain approximately \$70,000 or more illegitimately at the Kalispel Casino. Those individuals are in custody. This resulted in a broad review of the various machine manufacturers involved, and the needed corrections in virtually all the tribal casinos in the state in order to update the systems. **Director Day** stressed that this had nothing to do with the integrity of

the equipment, and there was no other evidence that any other tribal casino was victimized in this manner.

Centennial Accord: **Director Day** reported that he attended the Annual Centennial Accord meeting, a meeting between tribal governmental leaders and the Governor on November 3. The meeting agenda was included in the agenda packet for information.

Presentation on the Agency Website: **Director Day** introduced Tom Means, Administrator for the agency's Information Services and Technology Division. **Mr. Means** presented an overview of the evolution of the web site, a highlight of where the agency was headed, and he provided a live demonstration. He noted the agency web site started in 1997. The Commission averages approximately 6,000 visitors a month to our web site, which equates to about 160,000 hits. In 2001 online licensee training was added—currently only punchboard, pull-tab and raffle training is provided online. In 2003, on-line special agent employment applications were added for individuals interested in applying for positions with the agency. In 2002, realizing that the website was getting stale, an agency website action team was formed to refresh and reformat the site. A couple of the primary goals were: to review validity and accuracy of the contents on the website, and to design a more user friendly website. On October 1, the team launched the new web site.

Mr. Means addressed the future of the agency's website and the desire of the team to offer online activity reports and downloadable fill-in forms, similar to the IRS 1040's. Mr. Means provided a semi-live demonstration of the website.

Director Day continued with his report: Decision on Public Policy Research for Charitable/Nonprofit Gambling: **Director Day** recalled that at the last few commission meetings, the Commission had been talking about the potential for public policy research relative to charitable and non-profit gambling. The Commission asked staff to bring back a Request for Proposals (RFP), in order for more details to be available to the Commissioners and so they could look at the project specifics. A memorandum from Ms. Blume was included in the agenda packet and the important content areas from the RFP. The RFP is expected to be approximately 30 pages in length. Director referred to item 1.2—the objective. The defined objective is to obtain objective, unbiased, and independent factual data concerning charitable and non-profit gambling, and to reach conclusions and make recommendations for change. The research would have several benefits, including serving as a significant educational tool in evaluating the contribution of gambling to charitable and non-profit organizations, and assessing the Commission's efforts to implement state law, while also forming a foundation for future Commission rule making and providing recommendations for change. Director Day specifically addressed sections of the RFP dealing with legislative policy, statutes and rules, what is currently going on in charitable gambling, and what other states are doing. He noted that staff was coming from the aspect that most everything in existence in the Commission's system was designed when Bingo was a primary gambling element in Washington, and that staff has recommended looking for ways to enhance our regulation of that program. Staff is recommending that the Commission authorize proceeding with an RFP to obtain an outside consultant (pending the Commission's final approval of the budget authorization), estimated at a cost not to exceed \$75,000. Director Day explained this proposal was not included in the 2003-05

budget accepted by the Commission. Acceptance of staff's recommendations as defined in Ms. Blume's memorandum, would allow the parties to pursue final agreement, pending confirmation of available funding and subsequent Commission authorization. Essentially, staff would proceed to issue the RFP and bring back the exact expenditure which would be included in the RFP for final budget authorization and Commission approval. **Director Day** affirmed the budget process was particularly important in making sure that funding was available. The Commission, by accepting the recommendation would have another final say on the particular authorization for funding. There were no questions.

Commissioner Niemi made a motion seconded by **Commissioner Ludwig** to authorize staff to proceed with the RFP. **Chair McLaughlin** called for public comments and there were none. *Vote taken; the motion passed with four aye votes.* (Commissioner Parker was absent.)

Council on Problem Gambling: **Director Day** addressed a summary document prepared by Staff Attorney Melinda Froud. He reported the Commission reviewed the contract by and between the Commission and the Council, and through that review, discovered that the Commission did not have a clear authority to proceed with the \$150,000 contract. The Commission terminated the contract and reissued a smaller contract directed specifically at the 1-800 hot line number as authorized by statute. Subsequently, the Legislature addressed that issue and enacted a change to allow the Commission to broaden its support (which is discretionary and not required by the legislation).

The Commission received three proposals from the Council seeking additional funding from the Gambling Commission. One proposal involves a prevalent study, and the other two involved training. The Council advised their priority was a prevalent study (the state conducted a prevalent study about six years ago). Since the last study in 1999, there has been a lot of change in the layout of gambling in Washington, including the expansion of the tribal casinos and the card rooms. Therefore, staff recommended that the Commission authorize the staff to proceed with potential contract discussions around a prevalent study regarding problem gambling in Washington. The recommendation also came forward with a caveat that the Lottery Commission should also contribute a matching fund of \$75,000 for the study. However, if that wasn't successful, staff recommended the authorization for Gambling Commission staff to work with the Council regarding the possibility of expanding funding relative to awareness training. **Director Day** noted that as the necessary statutory change was enacted in the 2003 Legislative Session, the proposals submitted were not included in the 03-05 budget approved by the Commission. He reiterated that acceptance of the staff recommendation would be contingent on all parties pursuing a final agreement pending confirmation of available funds and subsequent Commission budget authorization. **Director Day** noted that regardless of whether the Commission decided to enter into a contract with the Council for any additional services, the current contract to fund staffing for the help line would not be affected. Staff's recommendation reflected a request to allow staff to negotiate the possibility of a prevalent study as a first priority, and if that was not successful, to look at the possibility of helping the Council fund an expanded awareness training for the industry and the public.

Commissioner Ludwig verified the proposal was to proceed with the prevalent study, recognizing that that it would take the Lottery and the Gambling Commission to fund it, and that while there was

a continuing need for some awareness training, the Gambling Commission would fall back to the awareness training development at a fee of \$50,000 if the prevalent study did not move forward. In essence it would provide consolidated awareness training at a lower dollar amount.

Commissioner Ludwig made a motion, seconded by **Commissioner Niemi** to adopt staff's recommendation. (Commissioner Parker stepped out of the meeting). **Chair McLaughlin** called for public testimony.

Gary Hanson, Executive Director for the Washington State Council for Problem Gambling advised that he supported the recommendation and looked forward to working with commission staff.

Commissioner Ludwig clarified the final contract depended upon the availability of funds. Mr. Hanson affirmed. With no further testimony or questions, Chair McLaughlin called for the vote.

Vote taken; the motion passed with three ayes. (Commissioner Niemi abstained, and Commissioner Parker was out of the room.)

Legislative Activities - **Director Day** reported that staff appeared before the House Commerce and Labor Committee to provide a gambling update. A copy of the PowerPoint presentation was inserted in the agenda packet reflecting the content of the presentation, and Director Day provided a summary discussion memorandum. He noted the Committee was considering researching ways for charitable and non-profit gambling taxes. Director Day reported that there are great differences of opinions on what may or may not have happened within the task force, and he believed the group essentially agreed to develop a task force list of various games and additional taxes that may generate revenue from gaming, which would be based on various assumptions. The group agreed to address the issue of a list and to produce a list based on projections that are compiled by the same staff group that addressed the fiscal note for the House Bill 1948. At this point the group was not going to make a recommendation of any kind or address policy issues; they are merely producing a list. The next meeting is on the 19th of December. **Senator Prentice** affirmed that it was possible that there would be a recommendation; however, at this point no decision was made. The list had to do with checking out whether the estimates submitted by the EIC were accurate. They were certainly different from what the agency had predicted. She acknowledged the task force was running out of time, and there wasn't time to look at this in depth. Senator Prentice expressed concern about any kind of expansion of gambling and believed there should be a referendum on this issue because the public had not been part of this discussion. She believed it was essential that the public be as well informed as the industry people.

Monthly Update Reports - **Director Day** noted there were a series of news articles about card rooms as well as contributions of card rooms and their progress in the state of Washington, and various articles about tribal activities. (Representative Pflug and Senator Prentice left the room, Commissioner Parker returned.)

3. Group IV Qualification Review:

Seattle Jaycees, Seattle:

Deputy Director Robert Berg reported this qualification review was for the year ending December 31, 2002. The Seattle Jaycees were formed in 1931 and has been licensed by the Commission since

1975. The Seattle Jaycees provides members ages 21 through 39 with the opportunity to develop personal leadership skills through local community service and organizational involvement. The Seattle Jaycees holds two licenses, a bingo license Class K and a pull-tab license Class I. During the review, staff checked the financial records maintained by the Seattle Jaycees and came to the conclusion that this organization made significant progress and is qualified as a non-profit in the state of Washington under Commission rules. Mr. Berg noted the gambling activity for the Seattle Jaycees (in terms of amount of money available for their non-profit purpose) increased by \$91,000 in 2002 over 2001, and that they compared favorably to other Class K Bingo licenses statewide. Staff recommended that the Seattle Jaycees be approved and certified to conduct gambling activities in the state of Washington as a non-profit corporation.

David Moody, President of the Seattle Jaycees addressed the Commission and provided some education. The Seattle Jaycee, unlike a drill team, hockey team, or glee club, raises funds through their gambling activities. The Seattle Jaycees is about young leaders looking for a chance to learn and gain skills—they are a leadership development organization for men and women from ages 21 to 39. The Seattle Jaycees has enjoyed over a decade of volunteering with Food Lifeline month. Another chapter assists the disabled—in July, vandalism damaged and sunk the wheel chair access fishing dock at Teal Lake in Port Ludlow. The Jaycees, the Port Ludlow Fly Fishermen Association, and a group of retired business professionals who love to fish rehabbed the dock. Mr. Moody reemphasized that the Seattle Jaycees is really about leadership development, and the membership age ranges from students shortly after high school, to folks with advanced degrees. The difference in their skills may be a shock; however, the Jaycees see that as an opportunity to develop and help hone skills that focus on goals for the workplace and the community. Mr. Moody highlighted several of the community projects.

Candy Starowski and **Earnestine Farness** responded to several expenditure question submitted by the Commissioners. With no further questions, or other public testimony, Chair McLaughlin called for a motion.

Commissioner Orr made a motion seconded by **Commissioner Niemi** to certify the Seattle Jaycees to conduct gambling activities in the state of Washington as a nonprofit organization. *Vote taken; the motion passed with five aye votes.*

4. House-Banked Card Room Reports:

Great American Casino, Kent:

Assistant Director Derry Fries reported that Oasis LLC d/b/a Great American Casino was located near Kent. Oasis LLC applied for a license to operate 15 tables of house-banked card games. The applicant was formed as a liability company in April of 2003. The LLC headquarters is located in Kent. Oasis LLC consists of Great American Gaming Corporation with 80 percent of the ownership and Canadian Ventures Northwest with 20 percent of the membership. The Great American Gaming Corporation is 100 percent owned by the Great Canadian Corporation of British Columbia. The Great Canadian Gaming Corporation of British Columbia ownership consists of Ross McLeod, Chairman of the Board with over 53 percent of the stock, Dora McLeod with 10 percent of the stock,

Jo Lynn Hoegg with 11.4 percent of the stock, Charles Ming with 10 percent of the stock, and other stock holders with less than with less that a substantial interest in the stock (less than 5 percent). Casino Ventures Northwest LLC ownership consists of Gary Murray, the LLC Manager with 80 percent of the ownership, and Gary Hess an LLC member with 20 percent of the membership. The applicant has no other licenses at this time, however, the substantial interest holders of Oasis LLC have a substantial interest in the following active and operating card rooms: Freddy's Club of Everett, Grand Central Casino of Lakewood, Grand Central Casino of Tukwilla, Great American Casino of Everett, and a pending licensure of Central Casino with Algona.

Special agents from the Financial Investigations Unit conducted a background investigation of all substantial business holders, and initiated and completed a financial investigation of both the LLC and personal member finances. There was no disqualifying information found. Special agents also completed onsite operational reviews in accordance with the rules of Commission. The applicant was found to be in compliance. Based upon the licensing investigation and the onsite pre-operation review and evaluation, staff recommended Oasis LLC d/b/a Great American Casino be licensed as a house-banked public card room and be authorized to operate up to 15 tables.

Gary Murray introduced himself as the Manager of the Great American Casino, affirmed that he was a substantial interest holder with 80 percent of Casino Ventures Northwest, and a 20 percent interest holder in the Oasis LLC Company. **Commissioner Ludwig** inquired, given the economical situation, whether Mr. Murray could open this facility and be profitable at the \$100 wager limits. Mr. Murray believed that with \$100 gaming limits there would only be a very few facilities that would be successful, and that a lot of the success had to do with location and the development of the employees. **Commissioner Ludwig** verified that Mr. Murray was not worried about opening a new casino at \$100 limits. **Mr. Murray** responded the he was concerned but not worried. With no further questions or public testimony **Chair McLaughlin** called for a motion.

Commissioner Orr made a motion seconded by **Commissioner Parker** to license Oasis/ Great American Casino as a house-banked card room authorized to operate up to fifteen tables with a maximum betting limit of \$100. *Vote taken; the motion passed with five aye votes.*

Mr. Murray thanked Commission staff for all their work. He commented that losing Mr. Fries would be a big loss for the licensee's and he thanked Mr. Fries for his years of service.

Coyote Bob's, Kennewick:

Mr. Fries reported Coyote Bob's Inc. d/b/a Coyote Bob's was located in Kennewick. Coyote Bob's Inc., has applied for a license to operate nine tables of house-banked card games. Coyote Bob's was originally incorporated as Crazy Moose Casino III in June of 2003. In July, the corporation changed its name to Coyote Bob's Inc. The corporation's headquarters are located in Federal Way. The ownership consists of Steve Bowman, Chairperson of the Board with 1/3 of the corporate stock, Robert Michell, President with 1/3 of the stock, and Carl Jacobsen, Treasurer with 1/3 of the stock. The applicant has no other house-banked licenses at this time. Special agents of the Financial Investigative Unit conducted a criminal and personal background investigation of all the substantial interest holders and their spouses where applicable. They initiated and completed a financial

investigation of both the company and the stockholder finances, no disqualifying information was found. Special agents from the Field Operations Division completed an onsite review and evaluation. The applicant was found to be in compliance with Commission rules. Based upon the licensing investigation and the PORE, staff recommended Coyote Bob's Inc., d/b/a Coyote Bob's be licensed as a house-banked card room and be authorized to operate up to nine tables. Bob Michell was present to respond to questions.

Commissioner Ludwig asked Mr. Michell if he was present for the discussions on the betting limits, and noted they may not be increased—that the Commission wouldn't know until there was a vote. He inquired if Coyote Bob's could be profitable at \$100 wager limits. **Mr. Michell** responded the he didn't consider himself a gaming expert. He reported that he was well aware how the gaming operation works, but that he was not in the day-to-day operation of the facilities. He reported that he also has an interest in the Crazy Moose in Pasco, which has been open for two years. Mr. Michell advised they have been profitable in that location, however, he noted a number of his competitors were not doing as well.

Senator Winsley inquired if Mr. Michell owned any gambling facilities in the Tacoma or Federal Way area. **Mr. Michell** responded that he had a number of restaurants and bars in Tacoma.

With no further public testimony or questions, **Chair McLaughlin** called for a motion.

Commissioner Ludwig made a motion seconded by **Commissioner Niemi** to license Coyote Bob's Inc., d/b/a Coyote Bob's as a house-banked card room authorized to operate up to nine tables with a maximum betting limit of \$100. *Vote taken; the motion passed with five aye votes.*

Z's Restaurant at Zeppoz, Pullman:

Mr. Fries reported that Palouse Recreation LLC, d/b/a Z's Restaurant at Zeppoz was located in Pullman. Pullman Recreation LLC has applied for a license to operate six tables of house-banked card games. The applicant was formed as a limited liability partnership in May of 2000. The LLC headquarters is located in Pullman. Palouse Recreation LLC consists of a general partnership of Palouse Recreation LLC, with 77.58 percent limited interest and Peter and Andrea Stephani with 22.42 percent of the interest. Palouse Recreational LLC consists of the LLC managers Craig Peterson and Wendy Peterson with 10.4 percent, Wayne and Carna Drufell with 27.9 percent, the members Thomas and Renea Nunemaker with 28.9 percent, Greg and Cassie Hannen with 11.56 percent, James and Katherine Delming with 8.67 percent, and Kenneth and Eleanor Ing with 11.56 percent. He reported this applicant does not have any other house-banked card rooms at this time.

Special agents from the Financial Special Investigations Unit of the Commission, conducted criminal and personal background information on all substantial business holders and initiated and completed a financial investigation on both the LLP and the personal member finances. No disqualifying information was found. Special agents also completed an onsite preoperational review and evaluation in accordance with the Commission rules. The applicant was found to be in compliance, and based upon the licensing investigation and the PORE, staff recommended that the

Palouse Recreational LLC, d/b/a Z's at Zeppoz be approved as a house-banked public card room authorized to operate up to six tables. **Wayne Druell** and **Max Faulkner** introduced themselves.

Commissioner Ludwig asked if they had heard all that discussion about the wager limits and inquired if they thought they could be profitable with \$100 limit. **Mr. Druell** responded that they wouldn't open up if they didn't believe they could be profitable and he was confident they would be profitable.

Commissioner Orr made a motion seconded by **Commissioner Niemi** to license Palouse Recreation, LLC d/b/a Z's Restaurant at Zeppoz as a house-banked card room authorized to operate up to six tables with a maximum betting limit of \$100. *Vote taken; the motion passed with five aye votes.*

House-Banked Card Room Status Report:

Mr. Fries advised with the three house-banked card rooms just approved, there are now a total of 84 house-banked card rooms in Washington, only 80 are active, licensed, and operating, and four are licensed but not operating. There are 12 house-banked applications pending on the list for investigation. **Commissioner Parker** commented that when looking at the previous chart, the share of the market that the house-banked card rooms have appears to be a declining share. On the other hand, when comparing year-to-year, their total volume of business was increasing somewhat. He inquired whether the Commission should look at the fact that we continue to get applications as an indication that people still see a business opportunity. **Mr. Fries** affirmed. **Senator Prentice** mentioned that it also appears that in locations where there were a lot of similar facilities, they impact each other as well. **Mr. Fries** affirmed. **Senator Prentice** advised that was why she has some difficulty weighing the information—she didn't know why anyone would gamble to the extent of putting so much money into a business if it was not going to be profitable. She acknowledged the licensee's expectation; however, she noted they have impacted each other and that market forces will continue to dictate their future. **Senator Prentice** noted that now, there seems to be an expectation that somehow we are supposed to make other kinds of adjustments, and that wasn't the kind of a deal the Legislature thought they were passing when the initial legislation was passed.

Commissioner Parker commented that it appears the primary consideration in terms of the betting increase would be the competition with the tribal casinos because they have the higher betting limit—and essentially the industry was fighting over a customer base. **Mr. Fries** offered his personal opinion that there were only so many discretionary dollars available and everyone was fighting for that buck, whether non-profit, commercial, or tribal casino. **Commissioner Parker** affirmed and noted that some of those facilities offer more than gambling and tavern type activities, they offer a wider variety of recreational activities. **Senator Winsley** addressed the economics of gambling, and reported she spent two days with legislators in Nevada—and reported they were “really crying the blues” saying they were having budget problems because their gambling revenues were way down. In Reno and other areas (except Las Vegas) the revenues were down the lowest they've been in history. They suggested it was mostly because of the expansion in tribal casinos in Nevada. **Commissioner Parker** responded that he also had the opportunity to be in Las Vegas several months ago and that the experience of visiting those casinos was a total experience. It's an

attractive place—they offer so much in addition to the gambling experience, which makes them so successful. They are getting people who are coming from all over the country because of what they are offering, and that gambling was just one part of the entertainment available. There were no further comments.

In closing, **Mr. Fries** reported his career with the Commission had been “a heck of a run” for over 20 years. He thought the Commission had great staff, and that they get better every year. He thanked staff, the Commissioners, and the licensees for their kind comments and the almost 21 years of adventures. **Commissioner Orr** responded that in his view, Mr. Fries was an over-achiever, an accomplished person, and a good citizen with his prior military and now Commission background.

Joel Wong, Tribal Director for the Muckleshoot Gaming Agency, addressed Mr. Fries and commented how much the Muckleshoot Gaming Commission appreciated Mr. Fries—every time there was a need to contact Mr. Fries, he responded and was able to assist in getting the right information. On behalf of the Muckleshoot Gaming Commission and all of the employees, he thanked Mr. Fries.

5. New Licenses, Changes, and Tribal Certifications:

Commissioner Ludwig made a motion seconded by **Commissioner Orr** to approve the new licenses, changes and Class III tribal certifications as listed on pages one through 21 on the approval list. *Vote taken; the motion passed with five aye votes.*

6. Other Business/General Discussion/Comments from the Public:

Dolores Chiechi, on behalf of the Recreational Gaming Association, also thanked Mr. Fries for all of his service to the Commission, and echoed Mr. Wong’s comments regarding Mr. Fries’ ability to always provide the information requested and that Mr. Fries had been easy to work with—the RGA appreciated Mr. Fries’ service and noted Mr. Fries would be missed greatly.

7. Executive Session:

Chair McLaughlin recessed the meeting at 4:32 p.m., to conduct an executive session to discuss pending investigation, tribal negotiations, and litigation, and a personnel matter. She announced no public action would be taken. At 6:00 p.m. Chair McLaughlin recalled the public meeting and adjourned the meeting. She announced that Friday’s meeting would commence at 9:00 a.m.

**COMMISSION MEETING
FRIDAY, NOVEMBER 14, 2003
TEMPLATE MINUTES**

Chair McLaughlin called the meeting to order at 9:05 a.m., at the Double Tree Hotel located in Spokane. The following members and staff were present:

MEMBERS PRESENT: **COMMISSIONER LIZ McLAUGHLIN, Chair;**
 COMMISSIONER CURTIS LUDWIG;
 COMMISSIONER GEORGE ORR;
 COMMISSIONER JANICE NIEMI;
 SENATOR MARGARITA PRENTICE;
 SENATOR SHIRLEY WINSLEY;
 REPRESENTATIVE CHERYL PFLUG;

STAFF PRESENT: **RICK DAY, Executive Director;**
 ROBERT BERG, Deputy Director;
 ED FLEISHER, Special Assistant
 DERRY FRIES, Assistant Director, Licensing;
 AMY BLUME, Administrator, Communications/Legal Dept.;
 CALLY CASS-HEALY, Assistant Director, Field Operations;
 JERRY ACKERMAN, Assistant Attorney General;
 SHIRLEY CORBETT, Executive Assistant

8. Minutes: Regular Meeting, October 9 and 10, 2003 – Spokane:

Commissioner Orr made a motion seconded by **Commissioner Niemi** to approve the regular meeting minutes of October 9 and 10, 2003, as presented. *Vote taken; the motion passed with five aye votes.*

9. Staff Presentation - Licensing Investigations Unit:

Special Agent In-Charge Neal Nunamaker introduced himself as the agent in charge of Licensing Investigations and he reported that his presentation was intended to provide more information about the unit. The function of Licensing Investigations, in cooperation with Licensing Services, and Field Operations, is to insure that only qualified individuals and organizations are issued licenses.

Licensing Investigations has two units: the Financial Investigation Unit and the Criminal Intelligence Unit. The Financial Investigations Unit (FIU) consists of two agent supervisors, both of whom are certified public accountants, and one is also a certified fraud examiner (CFE). There are eight special agents in the unit; five who are CFEs and three are CPA's. The primary task of the Financial Investigation staff is pre-license investigation. FIU looks into the source of funds for the businesses that eventually come before the Commission. The unit reviews where the money came from, their construction and financing, business ownerships and contracts, and other financial obligations they are involved with. Those investigations have literally taken agents all over the world to destinations such as France, England, Canada, Australia, and Mexico.

Mr. Nunamaker explained the agents are also involved in post licensing investigations. Situations change, ownership structures change, and financing changes. The Financial Investigations Unit spends quite a bit of time reviewing house-banked card room financial statement reviews, reviews of loans and other infusions of capital, especially as stock ownership changes. There are a lot of publicly traded companies or widely held companies (if not traded), and FIU reviews these structural changes. FIU is also the unit that assembles the qualification reviews for non-profit organizations that come before the Commission every month. FIU also works with Field Operations staff on the program reviews of charitable non-profit organizations to make sure that the monies they generate from gambling are being used for the purposes for which they are being licensed. Over the last bi-annium, the Financial Investigations Unit initiated 172 cases, 39 of which resulted in administrative action.

The Criminal Intelligence Unit (CIU) consists of a special agent supervisor who is a CPA, and three special agents, with over 80 years of combined law enforcement and experience. One agent is a certified fraud examiner, and two are gambling technicians with over 25 years of experience. CIU functions involve the collection and analysis of the criminal history of applicants and licensees, and also the development and review of intelligence of criminal activity directed at gambling operators. Last year the Criminal Intelligence Unit processed over 18,000 criminal history checks, processed over 4,000 fingerprint cards through the Washington State Patrol and the FBI, and facilitated criminal intelligence searches on approximately 4,500 individuals. Of the 18,000 history checks, approximately 4,000 were new people never seen in the system. CIU rechecks the criminal history on every individual yearly.

Of the 4,000 new individuals, CIU has received as many as 2,000 "hits" which could be something as minor as an unpaid traffic ticket. If some one has a warrant for not paying a ticket, CIU has the applicant clear the warrant before moving ahead with licensing. During that process, there were nearly 130 individuals who were denied, revoked or withdrawn based on their criminal history. The criminal intelligence checks are made through the Law Enforcement Intelligence Unit (LEIU), which is an international intelligence unit that operates out of the California Department of Justice. Approximately 375 law enforcement agencies have banded together to share information that is not provided from the normal channels of communication. LEIU maintains two different types of indexes. The first one includes national and international cheating groups and members associated with the recognized criminal cartel (organized crime). The second is a gaming index for those states and organizations that are members, listings are provided of all the individuals involved in gaming in

the representative states. **Mr. Nunamaker** explained there are international and national cheating groups that come into casinos and work as groups, and he noted they may be in many places around the country at one time. They are sometimes financed by a central organized crime group or figure, and then they send out people to do their work.

The Criminal Intelligence Unit also provides services to other Washington State gambling units. One of the main functions is identification of the subjects of investigations. CIU is able to access the driver's license information and get pictures of the subjects of investigations. The unit processes property record researches, criminal history records, vehicles, and other kinds of background information that might be needed for the investigation. **Mr. Nunamaker** affirmed that contacts around the country and around the world are critical for both FIU and CIU to perform their functions. The Law Enforcement Investigations Unit, the Northwest Criminal Intelligence Network, and Oregon Justice operate a great information-sharing network. CIU participates in the National White Collar Crime Center and the Pacific Northwest License and Fraud Investigations Unit. The unit also subscribes to a number of data mining services. Mr. Nunamaker responded to questions posed by the Commissioners at the conclusion of his presentation.

Rules up for Final Action

10. Minimum Bankroll for House-Banked Card Rooms:

WAC 230-40-833:

Cally Cass-Healy, Assistant Director reported this rule is up for final action; however, staff was asking to hold it over until January. The amendment requires licensees to maintain a minimum bankroll to pay out all advertised payouts and chips that are in play. Staff has been working with the industry to develop a worksheet that meets the Commission's regulatory needs and also is understandable for the industry. She reviewed some of the changes made since last month: staff updated the instructions and pulled out the pull-tab calculations because staff didn't think they were necessary. The form was added to the rule on the advice of Assistant Attorney General Ackerman. Ms. Cass-Healy explained that because there were significant changes, staff recommended holding the rule over until January so that everyone would have a chance to review it fully.

Chair McLaughlin called for questions or public testimony.

George Teeney, owner of the Last Frontier and New Phoenix in LaCenter, expressed his appreciation for the consideration to hold the rule over until January. He advised the industry has not had a chance to review the modifications and have discussions with staff regarding the changes that were made. He asked if a decision had been made whether this was going to be in module form where agents would come out and review this information on a weekly, monthly, or bi-monthly basis. **Ms. Cass-Healy** responded the intent was not for the licensee to necessarily fill out the form, although it would be available for them to do so, and she affirmed staff would visit the premises and complete the worksheet as part of their routine investigation or inspection. She clarified that it would be a violation if the licensee didn't meet the requirements, which was another part of the reason for putting the worksheet in the rule.

Chair McLaughlin inquired whether it was unusual to put a form in a rule. **Mr. Ackerman** responded that while it was infrequent, it was not unusual because it was usually done for a specific reason. In this case it would help to make sure that people understand the rule and the requirements, and staff felt that was important since the rule was so dependent upon the form. **Senator Prentice** also affirmed the practice and referenced a telephone number that was included in the problem gambling bill.

Bill Tackett pointed out that this rule would be a better rule if the staff and industry engaged in give and take, and it would ultimately make it easier for commission staff and the licensees. He supported this as a great example of why the rule making process works the best when conducted in this manner.

With no further public comments or questions, **Chair McLaughlin** closed the public testimony. **Commissioner Orr** made a motion seconded by **Commissioner Niemi** to accept the staff's recommendation and hold this rule over until the January meeting. *Vote taken; the motion passed unanimously.*

11. Audits and Reviews of Financial Statements for House-Banked Card Rooms:

WAC 230-40-823:

Cally Cass-Healy reported that WAC 230-40-823 - financial audits and reviews for house-banked card rooms was also up for final action. She explained that this rule requires house-banked card rooms with gross receipts over \$3 million to submit audited financial statements annually, and all others to submit reviewed financial statements annually. This would allow staff to get a good look at the businesses financial position and it would assist staff in recognizing undisclosed substantial interest holders and loans. Disclosures are required as part of an audit or review. It also allows some prevention measures—an independent party would review and prepare the financial data for the licensees. She reported that several comments were received since the last meeting regarding the ability of smaller businesses to afford reviewed statements; therefore, staff offered an alternative for consideration. The alternative would allow compiled statements to be allowed for those house-banked card rooms with proceeds of \$1 million or less. Although this was not the strongest regulatory position staff could take, Ms. Cass-Healy affirmed that staff was willing to take the risk because it would be a financial burden for those licensees.

Chair McLaughlin asked if the IRS accepted a compilation method or the review or audit.

Assistant Attorney General Ackerman responded that he believed that there was no one particular way—especially when one referred to the tax code. He explained that the IRS accepts certain types of financial information for some things and they demand a higher degree of scrutiny for others.

Chair McLaughlin opened the issue for public testimony.

Sally Herschlip, Buzz Inn Steak House, thanked staff for coming up with the two category provisions being over \$3 million and under \$3 million. She reported that at the last commission meeting she spoke to some of the licensees under the \$2 million threshold; and again requested that staff think about raising the \$1 million level to those licensees that are under \$2 million. She

explained that of the 76 licensees, 26 house-banked card rooms were under \$2 million in gross receipts, and 17 of those reported losses in the second quarter. She advised the cost of having a reviewed financial statement has been estimated to be anywhere from \$8,000-\$10,000. She believed that would impact approximately 14 licensees between \$2 million and \$1 million, which would equate to \$140,000 in additional expenses. She urged staff to reconsider and raise the \$1 million threshold to \$2 million.

Dolores Chiechi, Recreational Gaming Association, affirmed this was an issue that licensee's have grappled with as well as commission staff. She acknowledged that it was a financial burden for the industry; however, they believed that it would help paint a more representative picture of how the industry was doing. She announced the RGA agreed with Ms. Herschlip's suggestion of reconsidering and raising the \$1 million threshold to \$2 million. Ms. Chiechi believed that once the audits were completed it would provide a better financial picture to show the public, the media, and the Legislature how this industry was really doing. She believed the perception, when looking at a snapshot of gambling, was that all these businesses were making good money. The bigger picture, when looking at the full business, the restaurant, the bowling center, and some of the other aspects of the businesses would help show what the industry's financial health was really like.

Bill Tackett, Buzz Inn Group of Snohomish County, believed this rule was on the right track. However, he emphasized that the reports licensees have been submitting to the Gambling Commission for years do not give a real clear picture of what the total businesses are doing. He asked the Commission to give the industry an opportunity to work with the staff, in order for both teams to accomplish what they wish to accomplish, with an outcome of giving better information, without the financial obligation being on the licensee's shoulders. Mr. Tackett speculated that the action yesterday to grant three licenses affected about 200 jobs in the state of Washington, and created about \$1¼ million dollars in wages, which probably created about \$120 thousand in local taxes for the communities in which those house-banked rooms were located. He affirmed that was a tremendous effect on the economy of the state of Washington. Conversely, the rule currently being considered has only been discussed for two months, and he noted the industry has not had an opportunity to get together with staff to work out a better rule without the financial burden. The rule as proposed would affect 60 licenses and places the potential burden of \$750,000 in costs to those 60 licensees' and their families. He inquired what the \$750,000 would really accomplish. He displayed a simple financial report his business prepares each month—detailing the current year and the previous year, noting it also reflects any change made from month to month in those businesses—everything was reflected on the statement per month. Mr. Tackett affirmed this was a common business practice type form that anyone with any financial background could easily understand—it was a compilation. There were 12 reports and a tax statement for the year 2002. It was signed without any disclaimer by a CPA. The reports are compiled and all the information is transferred on to Form 1065, which reflects any changes in the financial beginning and end liabilities. The next form he demonstrated was a Schedule K-1, reflecting the percentage of ownership and the individual names, he noted that it also shows any cash investments or distributions. He advised if there were any questions regarding the report, Commission staff would have the authority to request an audit. Mr. Tackett believed everything could be accomplished without the tremendous costs involved in the rule as proposed.

Chair McLaughlin asked staff if they concurred with the statement that they have the authority to get everything they request without this rule. **Ms. Cass-Healy** affirmed that technically staff probably does; however, the Commission doesn't have the manpower to visit the licensee's premises and do this particular type of work on a routine bases—which is why getting the statements with verified numbers submitted to staff is much more beneficial. She cautioned that simply receiving tax returns would not equate to obtaining verified numbers—a CPA signs the forms, but they don't do tests on the numbers.

Commissioner Orr commented that the Commission doesn't have the staff to provide these functions, so we are asking the licensee to assume the responsibility, which would cost them roughly \$10,000 a year. He inquired how many FTE's it would take and at what cost the agency to have the appropriate staff. Commissioner Orr affirmed that said costs would be passed on to the licensees. **Deputy Director Berg** responded that on July 29, 2003, a study was prepared with an analysis of the commission staff conducting these audits vs. having CPA firms conducting the audits. He commented that when the rule was originally adopted (some time ago), the \$5 million dollar threshold was what the Commission adopted for audited financial statements. There was a debate, and then Director Bishop talked about whether the Commission should ramp up audit staff to provide this service, or whether we should let the private sector provide this service. The analysis addressed the question as to who could do audited financial statements, and while there are CPA's employed by the Gambling Commission, it was noted that the Washington State Gambling Commission was not a CPA firm. Mr. Berg noted the Washington State Board of Accountancy sets specific requirements through their WAC's as to who can do certain kinds of things, and that it would be problematic for Commission staff to facilitate CPA work from the perspective of providing audited financial statements. Mr. Berg responded to the specific staffing question posed by Commissioner Orr—if the Commission were to take on 80 house-banked card rooms, it would take 12,000 additional hours of staff time which would equate to approximately 11.6 new FTEs.

Mr. Tackett responded that he was not questioning the \$5 million dollar mark, he believed that was probably a good business practice. However, regarding the smaller operators in the smaller communities with lower gross receipt returns, he reiterated that Commission staff already has the ability to request an audit and the business would have to pay for the audit—without having to pass a rule. Mr. Tackett emphasized that he would like the opportunity to work with staff to come up with a better process to get better information, without the financial burden. He noted the IRS does not require an audited statement, the Department of Revenue does not require an audited statement, and as a licensee since 1973, he advised that he has never had a state or a federal agency request an audited statement. He asked the Commissioners to strongly consider sending this rule back to staff with the recommendation to work with the industry to develop a better rule feasible for everyone.

Chair McLaughlin questioned Mr. Tackett's top gross receipts last year for his East Wenatchee enhanced card room. **Mr. Tackett** responded it was under \$500,000 for one year and the gambling tax for the city of East Wenatchee was about \$40,000; however, he reminded the Commission that this facility was a new card room. .

Director Day emphasized this rule to a great extent was preventative in nature. Regarding the discussion about taxing agencies or other agencies that don't request audited statements, he reminded the audience that the Commission was a gambling control agency and that the Commission's big mission was to look at where money goes and where it is coming from to make sure that taxes are being paid, and that accurate financial information was critical to that mission. He noted that the Commission does require audited financial statements from each tribal facility regardless of their size. Addressing the analysis, Director Day noted that part of the reason it was conducted was because staff was asked to examine this issue, at the request of licensees, in order to determine how much it might cost. It was an exhaustive analysis. Staff was also concerned about adding positions in the current state government climate and the initiatives to turn more over to private enterprise rather than to add more employees. He also felt that part of the bottom line was if staff conducted the audit for the licensee and discovered something from that audit, the licensee would probably be facing a penalty or an administrative charge, and would have no benefit from that information. On the other hand if they have information, whether it is an audited or reviewed statement, which is theirs, it may be used to support other purposes that they have as well. Director Day emphasized that staff would have no objection to holding this rule over for another month to continue working on the rule.

Chair McLaughlin asked if there was a scientific reason for staff deciding that an audit was needed at \$3 million dollars and above. **Ms. Cass-Healy** responded in the negative, noting it was selected because it was a midway point. Chair McLaughlin inquired if the Commission decided that \$4 million was a fairer amount, there wouldn't be a valid reason not to do so. Ms. Cass Healy again responded in the negative. Chair McLaughlin called for any additional testimony.

Chris Kealy, Iron Horse Casino and Cascade Gaming, advised the Commission that when a businessperson signs the front of their tax return and doesn't do it correctly, or violated the law, the owner would be in trouble. Mr. Kealy thought that moving the bottom limit up would be okay on the compiled statement, if staff wanted to take the risk. He advised his bigger issue related to the statistics of how 12,000 hours translates into 11 FTE's, when a typical employee works 2,000 hours a year. **Mr. Berg** responded that the Commission utilizes an exhaustive model that computes the amount of required training the agents must participate in (40 hours abusive training a year, 40 hours of professional development training a year, and their vacation each year), and when calculating the billable hours from that, it equates to about 1,150 and 1,290 billable hours per agent. He also suggested that bouncing the top number from \$5 million gross receipts, to \$4 million, or to \$3 million on the audit line, that a greater number of people or a greater number of licensee's would fall in the area of review, which would require more staff eventually. Mr. Kealy responded that the Commission would be asking the industry to stand up to the next level because ultimately any one above the line doing the audits would have to pay for the FTE's necessary to cover the below the line issue. He indicated the watermark of \$1 or \$2 million and the other watermark of \$3 or \$4 million for a compiled review and audit would matter a lot. He advised that he supported staff's recommendation at the \$3 million level and supported Mr. Tackett, or suggested going somewhere in the middle, at \$1.5 million for the compiled level, knowing that staff would have to watch the people below the review line a little differently because they would have to review tax returns and start doing their own work. **Chair McLaughlin** suggested the industry would have to be aware that

if the audit threshold was raised, or if it was left at \$3 million, it wouldn't matter because it may keep the regulatory costs down versus taking a chance that regulatory costs go up. **Mr. Kealy** advised that he would continue to push for any one below the audit line should perhaps pay their own bill. **Mr. Tackett** rebutted Mr. Kealy's case and advised that he would be perfectly willing to pay for any requested audit requested by staff and clarified that he was not against that principal.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** to hold this rule over until January in order to allow staff and the industry further opportunities to discuss this rule. *Vote taken; the motion passed unanimously.*

12. Relief from Adjusted Cash Flow Requirements for Bingo Operators:

WAC 230-20-059

Amy Blume, Administrator, Communications and Legal Department, reported that at the May Commission Meeting, the Commission passed a rule to eliminate the variance process for licensees that were out of compliance with the cash flow rules. At that time, staff was asked to see if there might be other options. Staff contacted the licensees and has been working with them on three different options. The rule that is up for discussion and possible filing is the one that staff felt was the best option. It is anticipated that this would be simpler than the prior process, yet still give the licensee some of the relief option. Ms. Blume highlighted the changes between the prior process and the process that was being proposed. Overall, staff would measure the cash flow compliance annually rather than quarterly. Staff would continue to make sure that a licensee wasn't in a negative cash flow situation, so that part of the rule would remain the same. She explained that if a licensee had a negative adjusted cash flow for two quarters in a row; the Director would summarily suspend them—which would mean they could not operate. They would then have a right to various hearing processes. That part of the rule was preserved because staff believed that issue was really important when the rules were passed three years ago, and remains important. If a licensee had a negative adjusted cash flow, that meant they were possibly having to take money from their other funds to actually keep the Bingo program in operation.

Commissioner Niemi commented that a lot of people have negative cash flows and then they make it up in another quarter, and questioned why the Commission would want to fiddle around with the balancing again. **Ms. Blume** believed the distinction was when a licensee was having to take money from other sources to support their Bingo program, when that activity was supposed to be self-supporting. She explained that was also something that the industry was worried about. If licensees have to maintain that positive cash flow, even if it is only by one dollar, then that would prevent predatory practices. Another change in the rule would be if a licensee was out of compliance but they were still within 25 percent, then they would automatically be granted a 25 percent reduction to the requirement. Therefore, the process of having to come before the Commission or having to go before an administrative law judge and apply for a variance would no longer be needed. Another part of the rule that is different; the licensee could begin applying for this after the 2003 calendar year. That means in practical terms, that after the beginning of this next year, if a licensee was out of compliance but within 25 percent, they would automatically be able to get that 25 percent reduction. However, the licensee would have to be in compliance for four years before they could

apply for relief again. For example, if a licensee didn't meet the requirements in 2003, but they were within the 25 percent they would essentially get a waiver for 2003. Then they would have to comply for the next four years in a row (2004 through 2007). If they were out of compliance for 2008, then it would be at that point that they could get relief again. If a licensee received a waiver in 2004 and became immediately out of compliance the following year, they could not get another waiver. Staff would bring charges for revocation and proceed to an administrative hearing. **Ms. Blume** reported the licensees liked this option because they liked the simplicity of the process.

Ms. Blume referred to three graphs supplied in the agenda packets that compared the number of Bingo licensees both by the total and gross receipts as well as by license class and Bingo attendance over the past ten years. Overall the graphs showed a steady decline in Bingo. Ms. Blume noted that staff recommended filing this rule for further discussion.

Commissioner Ludwig expressed concern because time and time again the Commission has heard that frequently there is one quarter that is bad—and that may occur every year because of the weather or the time of year. He suggested that allowing one year to be exempt wouldn't solve that annual reoccurring problem. Commissioner Ludwig advised that he wasn't sure he liked any of these alternatives—and that he had an interest in giving the licensee a break for the one bad quarter each year without affecting their license in anyway. He acknowledged there were obvious business considerations, because if a business closed for three months they might lose their clientele altogether for the next quarter or two. **Ms. Blume** affirmed that Bingo was cyclical and this part of the rule was essentially the same as the other rule option. Before, staff looked at a rolling four-quarter average, which allowed taking that cycle into consideration—and now staff would be looking at it on a calendar year, which essentially does the exact same thing. Commissioner Ludwig agreed these changes were better than the old variance process. He cautioned that this was a tough business to be in these days, but it was also a tough business to run at a certain time of year. He emphasized that he was trying to figure out how to solve that bad time of year problem, when the licensee would probably rather not even open up their doors—except, if they closed their doors then they have a clientele problem. Commissioner Ludwig felt like the alternatives seemed to be getting away from trying to solve that annual cyclical problem.

Director Day affirmed that staff did consider the option of dropping a quarter. However, staff attempted to look at the method that provided the broadest relief with the simplest application. The alternative proposed allows staff to do that because it does at least take in the entire year. However, if a licensee had a really bad quarter, there is still the potential that cutting 25 percent off the requirement wouldn't be enough to get down to the minimal amount accepted, which brings the discussion back to the on-going debate of how much the Commission wants to reduce the already established bottom line. He emphasized that it was extremely difficult to have one method that fits the broadest application, and acknowledged this rule option would not solve all the problems, but it does have a benefit. At least this at this point, a licensee could have a negative quarter, a positive quarter, a negative quarter, and a positive quarter, and the Commission would not take any action against them because staff would be looking at the whole year. Previously, if a licensee had two negative quarters back to back, then they were essentially draining money from their charity instead of putting money back in, and the likelihood of them getting up and having a profitable year was

very minimal. That was why the agency drew that line—at some point the Commission just has to say “you’ve got to go out of business, you are hurting your charity rather than helping it and the sooner the better”—which is why the back-to-back negative decision was made.

Commissioner Ludwig appreciated the explanation. He advised that he still couldn’t comprehend how the rule helped the annual bad quarter and he believed the licensee should get some form of relief once every four or five years. **Director Day** clarified the rule would just provide 25 percent relief in a year and the licensee would not be eligible to get that relief again for another four calendar years. If a licensee did have a reoccurring problem that drove them below the minimum cash flow, they could not access relief. This rule provides a one-time relief every fifth year.

Assistant Attorney General Ackerman addressed Commissioner Ludwig’s question of how to deal with the one bad quarter. He believed the intent of this rule was to deal with that bad quarter by looking at whether or not an organization had met it’s initial requirement once a year. They could have a bad quarter, but it would be averaged over the whole year, and the licensee must still meet their adjusted cash flow balance for the whole year. The old rule with the rolling quarters didn’t adequately deal with the bad quarter described.

Commissioner Ludwig stated that based on the comments made, he would make a motion seconded by Commissioner Orr to file the rule for further discussion. He acknowledged everyone was still trying to get to a better solution.

Commissioner Niemi didn’t think the Commission should make any final decision regarding the variance problem until the charitable/non-profit study was completed, which she believed was scheduled for around March. **Mr. Ackerman** affirmed if the Commission chose to file the rule; it could be on the agenda for up to six months. **Chair McLaughlin** called for public testimony.

Don Kauffman, General Manager for Big Brothers and Big Sisters of Spokane, advised that he appreciated the discussion, and appreciated that this was the best proposal seen from staff. He believed that there were still some problems—the plan addresses the one bad quarter, but, what it doesn’t address is the unplanned bad quarter, the one the licensee can’t control. He advised his organization made 50 percent of their net return this year, in the first quarter of the year. If they had a bad quarter in that part of the year—they would be devastated for the whole year. He asked what would happen if the sewer line broke in the middle of January and asphalt couldn’t be put down until April. He advised that it was those kinds of problems the licensee has no way of planning for. He believed the old rule allowed for unplanned problems or issues when it was things out of the licensee’s control. This plan does not allow for that—the licensee gets one year of relief and then has to be in total compliance for four years—no matter what happens, no matter what act of God comes your way. He noted the industry was losing 100 licensees every five years and he cautioned the industry would lose more if a four-year no compliance process was adopted.

Chair McLaughlin called for additional public testimony, there were no further comments and she called for the vote. Vote taken; the motion passed with four aye votes.

13. Petition for Rule Change by Valerie Storkson Regarding Pull-Tab Inventory Control:

WAC 230-30-072:

Ms. Blume explained the Commission is required to act on petitions for rules within 60 days. Because there is no meeting in December, the Commission must take some type of action on this petition at this meeting. She explained any member of the public may file a petition, and this petitioner owns the Storkson Restaurant and Lounge in Anacortes. They have a Class J pull-tab license, which authorizes gross receipts between \$800 thousand and a million dollars. Currently when a game is put into play, the licensee is required to note the date that it is put into play, then put the ID stamp on their inventory record or on the distributors invoice. The ID stamp is the stamp they purchase from the Gambling Commission that has a barcode on it. The petitioner wants to change this process so that they could record the information either when the game is being put into play or when they remove it from play. The new language that is being proposed relates to when a licensee removes the game from play. Staff received this petition last week, and while the Agency Rules Team usually meets once a month, they have not had a chance to review this proposal. Field Operations staff has completed an initial review. Ms. Blume explained that within 60 days from receipt of the petition, the Commission must file the rule or the petition, deny it, or propose an alternative. Staff recommended filing the rule for further discussion. Ms. Blume introduced the petitioner, Ms. Storkson.

Ms. Storkson reported that she has approximately 45 games in play in her establishment. She explained that if she has 45 games in play and 50 games on the shelf, current Commission rules require that she takes the tab off the game and post it on the inventory sheet while the games are still in play, conversely, Ms. Storkson believed it would be better to attach the bar code when the game comes off the floor. That change would make the inventory process much easier because the licensee could check their inventory sheet, see they have 90 games not in play and verify the games and tabs. **Commissioner Ludwig** questioned if the Commission was really concerned with the inventory of the pull-tab games on premises, or the pull-tab games that are no longer in use or available for use. Ms. Storkson responded that it would be the pull-tab games on premises. The Commission also tracks when the game comes out of play, which was when Mr. Storkson believed was the appropriate time that the bar code should go on the inventory sheet, not while the game was still in play. Commissioner Ludwig believed that he wouldn't care about whether a licensee has an inventory of whatever games they have that are no longer available for anyone to play; however, he would like the inventory to contain the games that are on the bar or the back bar, and the games that are waiting to go on the back bar. Ms. Storkson affirmed that would be her inventory; the bar code should go on when the game is taken out of play—if she were to look at the inventory sheet and there weren't any bar codes, she would instantly know that every one of the games were in her establishment. If the barcode was on that sheet, that would appropriately indicate that the game has been taken out of play.

Commissioner Niemi suggested that it was perfectly reasonable to schedule this rule for continued discussion in January. In the meantime, staff would have the opportunity to work with the petitioner and make recommendations on how staff has decided to respond to the suggestion contained in the petition.

Commissioner Niemi made a motion seconded by Commissioner Ludwig to file the rule. *Vote taken; the motion passed unanimously.*

14. Other Business/General Discussion/Comments from the Public:

Commissioner McLaughlin presented retiring Assistant Director Fries with a congratulatory card on behalf of the Commission.

Chair McLaughlin reported the Commission had one last matter for consideration. **Commissioner Orr** advised the Commission hired Director Day in August of 2001, and that over the course of the last couple of years Director Day has done a pretty fine job, and he noted the Commission has never given the director a raise. In light of his good performance, Commissioner Orr made a motion seconded by Commissioner Ludwig to enhance Director Day's salary by \$6,000 a year. *Vote taken; the motion passed unanimously.* **Director Day** expressed his appreciation for the confidence the Commission has shown and he also credited the staff for the wonderful job that they do.

Chair McLaughlin called for public comments or general discussion items not on the agenda.

Senator Prentice commented that after watching the Commission's continued anguish over the betting limits and after some discussions with other Legislators, she believed legislation would be introduced to place that decision in the hands of the Legislature. She explained that when the original law was passed in 1973, it was a very different world in terms of gambling, and certainly there was a much more sophisticated operation and there are other activities currently going on. Senator Prentice advised she would be introducing the legislation and she hoped to have it passed during the upcoming session. She advised she couldn't make any guarantees because once people started deviating from the original purpose, it tended to open up the floodgates for a lot of other things that weren't intended.

Commissioner Niemi responded that she believed the Legislature already had the ability to deal with betting limits at anytime. Even though the original legislation in 1973 also gave that ability to the Commission, she didn't believe there was anything unreasonable about the Legislature taking over that duty. She assumed they would then also take that ability away from the Commission. She advised that she could see a lot of disadvantages as well as advantages, and that she would like the opportunity to discuss this issue with some of the members of the Legislature.

Mr. Ackerman affirmed that any of the commissioners (individually) were free to talk to Legislators. He emphasized that under RCW 9.46; the Commission has the authority as a Commission, and in fact is encouraged to make recommendations to the Legislature on topics of concern. He acknowledged this issue would certainly seem to be appropriate, and if the Commission wished to make this a discussion topic, or to pass a resolution, or otherwise instruct Director Day or any Commissioner to make a recommendation to the Legislature, that was certainly within the Commission's statutory authority and responsibility.

Chair McLaughlin responded that since she just heard about the potential legislation this morning, she didn't have an immediate recommendation. **Director Day** suggested once the legislation was

submitted, if the Commission (after some thought and discussion) could choose to issue an opinion letter on the various issues or concerns relative to gambling. **Chair McLaughlin** affirmed the commissioners have two months to think about this issue, unless a special meeting was scheduled to discuss the topic. She asked her fellow commissioners if they felt like they were in a position to send a letter to the Legislature. **Commissioner Orr** didn't believe so, **Commissioner Ludwig** responded in the negative, and **Chair McLaughlin** indicated that she was not in a position to do so right now. **Commissioner Niemi** affirmed she wasn't ready to send any letter; however, she did support talking about the issue.

Chair McLaughlin called for general discussion from the audience.

George Teeney, New Phoenix and Last Frontier, affirmed this was certainly under the purview of Senator Prentice to propose legislation for the Legislature's consideration. He advised that he thought the discussion about the betting limits has been a good one, and that it brings everything to the surface. He affirmed that he would have liked to have seen a decision made last month, or a decision made this month. He suggested the problem with the Legislative process is that they have two months of time and six thousand bills to consider—and it gets to a point where it becomes laborious to get anything done. Then everyone has to wait until the next year and start the process all over again. He believed the Commission was highly capable of making the decisions themselves on this particular issue, and acknowledged that it just takes time.

Don Kauffman, Big Brothers and Big Sisters, responded that Senator Prentice's proposed had taken him by surprise. He commented that there are numerous ways to influence Legislators, from good arguments and good discussion, to financial contributions—however, there was only one way to influence the Gambling Commission—by debate and information. He advised that he would prefer to see the debate and information and a neutral party make these kinds of decisions as opposed to the Legislature. He stressed that these kinds of decisions need to be debated fully and influenced only by good information, with a neutral party making the decisions.

Chair McLaughlin called for any further comments, there were none, and with no other business **Chair McLaughlin** adjourned the meeting at 10:45 a.m. She advised the next meeting was scheduled for January 8 and 9, 2004, in Seattle.

Minutes submitted by:

Shirley Corbett
Executive Assistant